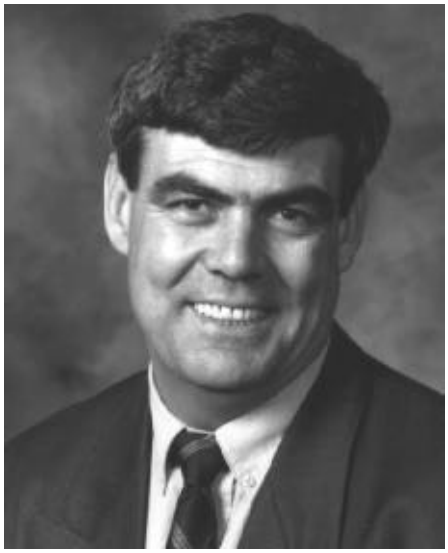

Speech by

Mr P. PURCELL

MEMBER FOR BULIMBA

Hansard 27 August 1998

WORKPLACE RELATIONS AMENDMENT BILL

Mr PURCELL (Bulimba—ALP) (3.31 p.m.): In welcoming our visitors from Japan, I would like to say that, along with the Japanese workers, Australian workers are some of the hardest workers in the world. I think that what a previous member said about Australian workers is not correct. The cheapest coal dug out of the ground anywhere in the world is from Queensland. It is dug out by very hardworking miners. However, we have to get away from saying that we can make things cheap or saleable only by dealing with people individually. That is what we are talking about. The Opposition wants one-on-one contracts. I want to talk about the collective contract. I think that is a much fairer way of doing business.

In any employment relationship, a contract for employment exists between the employer and the employee. This is called a common law contract. For the majority of employees in Queensland, the common law contract is often overlapped by other employment arrangements, such as awards and agreements.

Awards are established by legislation and are legal documents that contain provisions covering rates of pay, conditions of employment and other industry matters. Awards usually cover groups of employers and employees in a particular industry. For example, in Queensland we have approximately 320 State awards. A system based on awards represents a collective approach to industrial relations. Certified agreements are another form of collective industrial relations. Certified agreements are negotiated by a trade union or unions or by a group of employees and the employer. A union does not have to be involved and, in some cases, unions are not involved. The agreement can set out rates of pay and conditions of employment for employees at a particular workplace or enterprise.

Queensland has a history of collective industrial relations—a history of interactive collective labour and management. I remind members that some of the largest building projects in this State were carried out under agreements with Governments of both sides. Certainly, the previous Government was not against agreements, and I can go back to Bjelke-Petersen's day. He recognised how important it was for employers and employees to have agreements—not one-on-one agreements. The Gladstone, Tarong, Stanwell and Callide B Power Stations were large projects that were very important to Queensland, as were the Gladstone smelters and as is the coalmining industry. All of those projects were carried out under collective agreements.

The main objective of labour law, which is what we are talking about, has always been, and I venture to say always will be, to be a countervailing force to counteract the inequality in the bargaining power which is inherent and must be inherent in the employment relationship. The industrial relations legislation introduced by the coalition Government, the Workplace Relations Act 1997, failed to meet this objective. It did not counteract the inequality in the bargaining power between the employer and the employees. Not only did the Workplace Relations Act 1997 not help to redress the power imbalance between employers and employees but also it actually increased the power imbalance by shifting the focus of the legislation away from collective industrial relations to individual industrial relations.

Collective industrial relations provides workers with a collective voice. By working together, whether as a member of a trade union or as a group of employees, employees become unified and they can shift the balance of power to some extent. As the old saying goes, "United we stand, divided we fall." The same goes for employers. I can assure members that, in terms of industrial relations, employers stick together pretty well.

I have had some experience with the building industry and I know that the lowest price is the common denominator. If the workers do not have some sort of collective bargaining system, the lowest common denominator wins the job. That means that the employers who can screw the most out of their workers are the winners. They will get the job because they can offer the lowest price. That continues and the base rate gets lower and lower and lower. We then find that the labour market is depressed.

Mr Santoro: Not everybody does that.

Mr PURCELL: I was in the building industry long enough to know that, in a period like the one we are in at the moment where work is very hard to come by, wages spiral down. People are doing work in this industry now for the same rate that they would have received 10 years ago. That is a fact. They are getting screwed by the people who are offering the work because they can get away with it.

Mr Santoro: What is the union doing about it?

Mr PURCELL: The member knows very well that the union covers about only 10% of the people in the building industry. The Opposition wants to screw that 10% as best it can. There is a free market in the housing industry, and I can assure the member that those people are getting screwed.

As I said, collective industrial relations provides workers with a collective voice. Individual industrial relations has the potential to shift the balance of power away from the worker to the employer. The Workplace Relations Act 1997 provides individual industrial relations in the form of Queensland workplace agreements, or QWAs. They are agreements between a single employer and a single employee. They are secret agreements that are not open to public scrutiny.

The Opposition can say that, if a party wishes, he or she can make the terms of that agreement known. However, if the members opposite want to listen and learn, I will tell them what happens in practice. Recently, I have seen half a dozen to eight agreements that specifically prohibit their publication.

Mr Santoro: That's against the law.

Mr PURCELL: I know it is. However, they specifically prohibit the publication of the contents of the QWA. My young daughter picked up a job. She gave away a part-time job to work for another company. The first day she was there, she had a QWA put under her nose and was asked to come back in the morning with it signed. There were no employers to talk to that day—they were all off somewhere picking their noses. When I came home that night at about 8 o'clock, she was in tears. She had given her job away. I sat up with her until very late.

Mr Santoro: Did you go and confront the boss?

Mr PURCELL: I did not, but I gave her the ammunition with which to front the boss. There were four pages of it, and most of what she was being asked to sign was illegal. However, she had no idea that it was illegal. She is a 21-year-old girl who has no idea what is legal and what is not. She does not know what the Industrial Relations Act does, but her employer does.

Mr Santoro: Was it a State or a Federal?

Mr PURCELL: It was a State award. So the next day my daughter went back to work prepared to snatch the job because they were offering her well under what she was entitled to receive and threatening her with legal action if she published or spoke about what was in the agreement.

Mr Santoro: That's not right.

Mr PURCELL: Well, it is not right. It gives employers the opportunity to exploit young people who do not know any better. I can assure the House that that matter has been sorted out. If I catch him at it again, I will not have to go to the Industrial Relations Commission. I will snot the bloke.

Mr Santoro: That is where you should take it; you should take it to the Industrial Relations Commission.

Mr PURCELL: He wanted individual action; I took it. The legislation introduced by the coalition Government failed to recognise the power imbalance between employers and employees. Let me state the obvious: employers have more power than employees, particularly in times of high unemployment. Employers aim to make a profit and may be faced with decisions regarding employing a person for a particular job, but employees are faced with earning a living, feeding the kids, paying off the house, paying the school fees, and getting to and from work.

A Government member: And paying the GST.

Mr PURCELL: Well, they will not be, because the coalition will not be in Government. Howard will be down the road. Only a small number of employees are lucky enough to have a level of bargaining power anywhere near on a par with their employers. I think most reasonable people in this House would agree with that. These employees have traditionally been in the field of management or are employees with highly specialised skills. In these cases, common law contracts are often used and

they are made on a one-to-one basis. These employees do not need industrial relations legislation to provide for their contract of employment.

QWAs are made by employees who do not have a high level of bargaining power. Industrial relations legislation should be about protecting employees, particularly those employees who may have low levels of bargaining power. A lot of the people I represented when I was in the union movement, in the Builders Labourers Federation, could not read or write. How would they get on with an employer on a one-to-one basis? What sort of bargaining power would they have?

I come from the bush and I call myself a bushie, but most of those blokes were bushies. I got the blokes I knew jobs when they came down here. I played football with them. With a lot of them, I did not know that they could not read or write, but I soon found out because they had trouble getting work. How would these people get on with an employer on a one-to-one basis when they could not even read a contract? But they would sign it to get a job. How would they be exploited? What protection is there for those sorts of people under this legislation? There is none at all.

Industrial relations legislation should not be exposing the weak to inferior wages and conditions. Some organisations have even used individual employment agreements as part of their human resources management strategies. CRA decided to divide and conquer and sign workers up on individual employment agreements. Other organisations such as BHP tend to adopt a collective approach and recognise the benefits associated with collective industrial relations.

Before I left the Builders Labourers Federation, there was a Statewide agreement with BHP to do all its construction in our sphere of influence. BHP gets a deal. We supply it with the workers that can do the job. It finishes on time. BHP makes a quid and the workers make a quid. What is the matter with that? Those opposite should tell me what is the matter with it.

Another important point regarding individualisation of industrial relations has been highlighted by industrial relations experts such as Ron McCallum of Blake Dawson Waldron, professor in industrial relations law at the University of Sydney. These experts have recognised that issues such as occupational health and safety cannot be handled on an individual basis. This is not Pat Purcell talking; this advice is from the experts. Members have often heard me talk about industrial relations in this House, but it seems that I am not the only one with these views. The experts say that pay equity, discrimination, technological change and redundancies are issues which cannot be handled on an individual basis. They need to be dealt with collectively, because the concepts involve the interaction of groups of employees. These things have to be dealt with properly.

As I was saying earlier, the quickest way to lower safety on a building site is to give the job to someone who offers to do it at a price well below what it can be done for. The first thing to be cut will be safety, because it is an indefinable thing. In a lot of cases safety is a state of mind—with people working together to make something safe or make something happen. With this legislation, conditions will disappear and wages will disappear.

Not only did the legislation of the coalition Government provide for these individual contracts; it also attempted to strip awards down to 20 allowable matters in a process called award simplification. This process meant that awards would no longer cover all aspects of the employment relationship. The scope of awards would be limited. For example, under award simplification, a provision in the award which requires the employer to provide for items and services such as clothing, tools, equipment, laundering and accommodation, which are not in the nature of an allowance, is not an allowable award matter. That represents money out of workers' pockets. No matter what anyone says, when the QWA comes before the commissioner those things are not taken into account because they are not definable and not able to be counted.

People may be surprised at the high cost of a pair of steel-capped boots. The same goes for work clothes and some tools. When I first started in the industry, tools for an apprentice were worth about $60. These days an apprentice would not get much change out of $800 to $1,000 for tools. Under QWAs, those things will no longer be supplied because they are not one of the 20 allowable matters. They will just drop off the end, and those opposite will have their hands in their pockets. If those opposite work out that sort of expenditure over a period of time, they will see that it has a negative impact on the employee's hourly rate and on what an employee would get on a yearly basis. Their wages are reduced fairly savagely.

This stripping back of awards by the coalition Government was intentional. Award simplification discouraged the use of awards by employees. It again illustrates the move away from collective industrial relations and towards individual industrial relations. The simplification of awards was done with an ulterior purpose in mind, that is, to push workers towards negotiating an agreement, preferably a QWA. It was an underhanded and shameful act by a Government supposedly elected to protect the weak in our society.

The coalition Government introduced industrial relations legislation which allowed exploitation of the weak. In contrast, our Government believes in a system of working collectively and in which the

rights of individuals are protected through the strength of the collective. That is why we urge the repeal of one of the most harsh and unfair acts in current legislation—individual employment agreements.

Our society is not a nation of individuals. We need to work together. Society is founded upon individual rights existing within the collective. We all know that we have individual rights, but we have to work together. We do not stand together collectively or proudly when we allow individuals to be exploited and their rates of pay and conditions of employment to be eroded. Those opposite should hang their heads in shame.

There are some moral obligations on people in this place in relation to taking the opportunity to take things away from people. It is time for the coalition to learn from its mistakes. It is time for the coalition to take some advice on trying to make individuals the centrepiece of industrial relations.

Those advocating labour deregulation regard the agreements reached between an employer and an individual employee as private in nature. In their view, unless there is law breaking, Government agencies and other people, especially trade unions, have no business in scrutinising these private arrangements. On the contrary, the act of working is a communal and social one and it involves the interaction of people within the public domain. The taking of paid work is a major public activity engaged in by most adults. We will be making sure that it is engaged in by a lot more people than is currently the case. There will be less than 5% not engaged in employment.

Work is such a large part of our lives. Industrial relations legislation regulates that work. It is the responsibility of the Queensland Government to provide industrial relations legislation for the good of all—for the good of society. The Workplace Relations Amendment Bill will do that. The Bill still allows parties to enter into both union and non-union collective certified agreements. Members opposite know that I do not agree with non-union agreements, but I will cop it. The Bill will still enable individual agreements to be entered into through common law contracts. The amendments will simply ensure that the rights of an individual are protected through a collective industrial relations system, as they should be. I urge all honourable members to indicate their intention to protect the weak in our society and to support the Bill.

In my remaining minute I must mention my dealings with a company called Kinetic Power Ltd, which has adopted Howard's and Patrick's approach to industrial relations on the wharf. Two of my constituents are involved in this matter, which concerns a company at Carole Park being placed into receivership. I have spoken to four different employment advocates on different occasions. All they said was, "Get a lawyer." This bloke has been out of work for two weeks and cannot get the dole because his employer will not sign the release form. The people at Centrelink have told him to go away. They do not want to know him. His three kids are starving to death and he has house payments to make. That is Howard's way of doing business. Employers will take their lead from Governments. The Federal Government condoned what happened with Patrick Stevedoring. Both it and Reith were in it up to their necks. That is why other employers are doing the same thing.

Time expired.
